IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
CHAMBER SUMMONS NO.683 OF 2007
IN
APPEAL [LODGING] NO.341 OF 2007
IN
SUIT NO.2792 OF 2000

U.P. Co-op. Spinning Mills Federation Ltd.	....	Appellant
Vs.		
P.M.A. Hakeem & Ors.	....	Respondents
And		
D. Dipti Vilas	....	Respondent
The Registrar, Handloom & Textile Co-operative Society, Uttar Pradesh, Kanpur	....	Respondent (Ori.Applicant)
And		
Anurag Srivastava District Magistrate, Kanpur, Liquidator of U.P. Co-operative Spinning Mills Federation Ltd.	....	Respondent

Sarvasri M.C. Shah i/b A.C. Mahimkar for the Appellant.

Sarvasri Zal Andhyarujina with N.R. Mody and Ms Deepali Thakore i/b M/s. Rustomji Ginwalla for the Respondents/Ori.Plaintiffs.

Sarvasri D.D. Madon, Senior Advocate with G.R. Joshi, S.N. Vimadalal, Manish Doshi and R.P. Badani i/b M/s. Vimadalal & Co. for the Purchaser.

Shri Deepak Raut for the Registrar Handloom & Textile Co-operative Society, Uttar Pradesh, Kanpur.

Shri D.V. Deokar, Ist Asstt. to Court Receiver present.

CORAM: R.M.S. KHANDEPARKAR &
D.G. KARNIK, JJ.

DATED: JUNE 14, 2007

P.C:

1. Heard. By this chamber summons the appellant/U.P. Co-op. Spinning Mills Federation Limited is seeking leave to bring Shri Anurag Srivastava, District Magistrate, Kanpur, who has been appointed as the Liquidator of the U.P. Co-operative Spinning Mills Federation Limited by the Registrar, Handloom & Textile Co-operative Society, U.P. as the appellant in place of the U.P. Co-op. Spinning Mills Federation Limited. The affidavit in support of the chamber summons discloses that by order dated 27-6-2006 passed in Judge's Order No.141 of 2006 in Suit No.2792 of 2000 leave is granted to initiate and complete winding up proceedings, for appointment of Liquidator for the U.P. Co-op. Spinning Mills Federation Limited in terms of Section 72 of the U.P. Co-operative Societies Act, 1965 and the same is also not in dispute and subsequently by order dated 14-8-2006 the Registrar, Handloom and Textile Co-operative Society, U.P. has appointed Shri Anurag Srivastava District Magistrate, Kanpur as the Liquidator of U.P. Co-operative Spinning Mills Federation Limited.

2. The present appeal was filed in April, 2007. The same was purportedly filed by the U.P. Co-op. Spinning Mills Federation Limited, a co-operative society registered under the U.P. Co-operative Societies Act, 1965. Thereafter, on 27-4-2007 the present chamber summons was taken out.

3. Once it is not in dispute that by order dated 27-6-2006 leave was granted for initiation and completion of winding up proceedings and appointment of Liquidator for the U.P. Co-operative Spinning Mills Federation Limited and further that Liquidator was appointed under the order dated 14-8-2006 for the said U.P. Co-operative Spinning Mills Federation Limited, needless to say that in accordance with the provisions of law the appeal in relation to the U.P. Co-operative Spinning Mills Federation Limited could have been filed only by the Liquidator and none other. The Appeal Lodging No.341 of 2007 having purportedly been filed by the U.P. Co-operative Spinning Mills Federation Limited on 4-4-2007 when it could not have filed the same, in the eyes of law it is not maintainable and question of bringing Shri Anurag Srivastava, District Magistrate, Kanpur and the Liquidator of U.P. Co-operative Spinning Mills Federation Limited as the appellant in place of the U.P. Co-operative Spinning Mills Federation Limited

does not arise at all. Initially the appeal itself being not maintainable, having been filed by the Federation which was already ordered to be wound up and for which Liquidator was appointed, and the same being on that ground not maintainable, question of bringing somebody as the appellant in a non-maintainable appeal does not arise at all. Hence the chamber summons is dismissed. There shall be no order as to costs.

(D.G.Karnik, J.) (R.M.S.Khandeparkar, J.)

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